

**PLANNING AND ZONING COMMISSION  
STAFF REPORT**

**November 16<sup>th</sup> of 2006**



**PV 06-26: 1804 Patton Avenue**

**CASE DESCRIPTION:** request for a complete variance of the minimum required side building setback from 7.5 feet to 0 feet for the carport;  
request for a complete variance of the minimum required side building setback from 7.5 feet to 0 feet for the storage building;  
request for a 19 foot variance from the front building setback from 25 feet to 6 feet for the storage building .  
All three variances are necessary to legitimize construction of an open carport and a storage structure

**LOCATION:** 1804 Patton Avenue in west Bryan, Brazos County, Texas

**LEGAL DESCRIPTION:** Milton Darwin's Subdivision #2, Block 8, Lot 8

**EXISTING LAND USE:** Single family dwelling

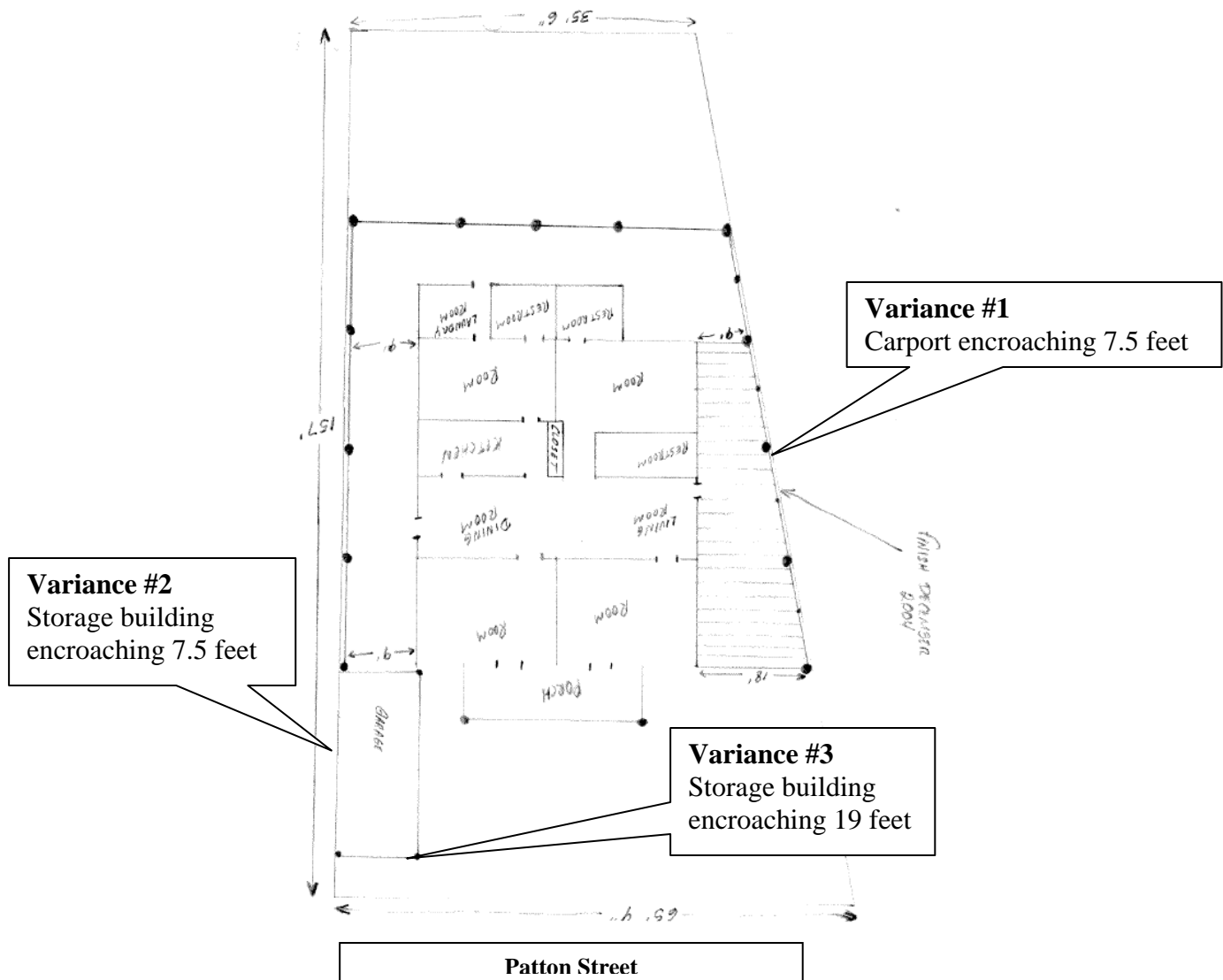
**ZONING:** MU-1 – Mixed Use Residential District

**APPLICANT(S):** Mary Gomez

**STAFF CONTACT:** Randy Haynes, Staff Planner

**SUMMARY RECOMMENDATION:** Staff recommends **denying** these requests for variances.





## BACKGROUND:

The applicant is requesting variances from the building setback requirements. These variances, if approved, would legitimize the encroachment of existing structures into the proscribed setback areas. These items are marked on the site plan as 1 & 2 (7.5-feet to 0-feet) and 3 (25-feet to 9-feet).

The applicant was cited a by the City's Code Enforcement Department for constructing a carport adjacent to their residence, without building permits and without city site plan approval. This carport extends approximately forty-five feet along the site's eastern boundary, where a minimum 7.5-foot building setback is required. Encroachments to setback standards are common in the area where the subject property exists.

Upon visiting the site, staff observed in addition to the carport, a storage building that was encroaching into the minimum setback areas. The storage building encroaches approximately 7.5-feet into the west side property setback and approximately 19-feet into the front building setback.

The applicant states that the storage building was constructed a "very long time ago." He also indicated the carport was constructed in December 2004. Staff was not able to find any evidence of a building

permit or an approved variance from the minimum building setback standards that would have allowed either of these structures to extend past the setback lines. Staff, therefore, believes that both the carport and the storage building were constructed unlawfully, without a permit.

To summarize:

The applicant is requesting a complete variance from the minimum 7.5-foot side building setback generally required on lots abutting another property or alley in MU-1 zoning districts, to legitimize previous construction of the carport.

The applicant is also requesting a complete variance from the minimum 7.5-foot side building setback generally required on lots abutting another property or alley in MU-1 zoning districts, to legitimize previous construction of the storage building.

Finally, the applicant is requesting a 19-foot variance from the minimum 25-foot front building setback generally required in MU-1 zoning districts, to legitimize previous construction of the Storage building.

#### **ANALYSIS:**

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);  
**Staff finds that access to the rear of the subject site is obstructed on both sides. The storage structure on the west side of the property encroaches into both the side and front setback. The ability to pass between each structure is critical if it becomes necessary to gain access for emergency personnel. Staff finds that this is potentially detrimental to public health and safety to area properties.**
2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;  
**Staff finds that allowing this variance would have a negative impact on the adjacent property. A considerable amount of storm water would drain onto adjacent lots from both structures. In addition, close proximity of the building structures could facilitate the spread of fire.**
3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.  
**Denial of the variance will require the owner/applicant to remove or modify the structures to gain compliance with the ordinance. Staff finds that the removal or modification will not outweigh the benefits derived by the general public through compliance with the requirements of this chapter.**

#### **RECOMMENDATION:**

Based on these considerations, staff recommends **denying** these requests for variance.